THE HON'BLE SRI JUSTICE V.V.S.RAO

WRIT PETITION NO.5937 OF 2005

DATED:18.8.2005

Between:

Valaturu Ramachandraiah

S/o.V.Venkata Subbaiah,

R/o.Flat No.D-1, House No.6-3-1200/2

Uma Nagar, Begumpet, Hyderabad and another

…Petitioners

And

The Sub Inspector of Police

Women Police Station, Nellore

and another

…Respondents

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ORDER:

The petitioners are accused Nos.3 and 4 in Crime No.22 of 2004 of Women Police Station, Nellore. Second respondent herein filed the first information report (FIR) against her husband, mother-in-law, and petitioners herein, which was registered as cognizable offence under Section 498-A of the Indian Penal Code (IPC). This petition is filed under Article 226 of the Constitution praying this Court to quash the crime on the ground that no allegation is made out against petitioners herein.

The brief fact of the matter is as follows. Second respondent is wife of

accused No.1, namely, Jaladanki Nageswara Rao. They were married on 8.11.1989, at Gudur, Nellore District. It is alleged that at the time of marriage, the bridegroom was paid a sum of Rs.1,00,000/- in cash besides 35 sovereigns gold as dowry. The marriage was consummated and the second respondent joined her husband. It is alleged that accused No.1, and accused No.2, mother-in-law of second respondent, started harassing second respondent for more dowry. It is further alleged that after marriage, second respondent stayed with her husband and mother-in-law at Tirupati, as her husband was research scholar, till 1993. The case of second respondent is that when they were in Tirupati, accused Nos.3 and 4 used to visit accused No.2 and they used to incite accused Nos.1 and 2 to harass the informant for more dowry. Be that as it is, it is also the case of second respondent that accused No.1 went to U.S.A. in April 1993 for better employment leaving the complainant with accused No.2 from April 1993 to June 1993 during which period accused Nos.2 to 4 allegedly harassed for more dowry. The wife joined her husband in 1994 and they stayed there till June 2000. In the meanwhile, they got two children and the wife was sent back to India, but husband continued to live in U.S.A. Since 7.7.2000, after coming to India, accused No.2 never allowed to communicate with his wife and she was left in lurch during which period accused Nos.1 and 2 with the assistance of accused Nos.3 and 4 harassed second respondent for more dowry.

Learned counsel for the petitioners, Sri O.Manoher Reddy contends that even if allegations in the FIR are taken to be true, they do not disclose commission of offence under Section 498-A IPC. This is seriously opposed by the learned counsel for second respondent as well as learned Assistant Government Pleader for Home. They would submit that it would be too premature to guess the role of accused Nos.3 and 4 in harassment of second respondent by accused Nos.1 and 2 and it is a matter of evidence.

A reading of the FIR lodged by second respondent would show that accused Nos.3 and 4, petitioners herein, allegedly used, to incite accused Nos.1 and 2 while they were Tirupati in April 1993. After that, second respondent lived with accused No.1, got two children and they left for U.S.A. and second respondent was allegedly deserted by accused No.1 in July, 2000. There is no allegation in the FIR that accused Nos.3 and 4 at any time lived with accused Nos.1 and 2 and the complainant either at Tirupati, Gudur or in places at USA. In such a case, can it be said that accused Nos.3 and 4 were instrumental in inciting accused Nos.A.1 and A.2 to harass the complainant for more dowry. I am afraid, the submission of the learned counsel for respondents, in this regard, cannot be accepted.

In **Kans Raj v. State of Punjab** the Supreme Court held that the parents-in-law of the wife cannot be roped in only on the ground of close relations unless there are specific overt acts. In **Ramesh v. State of Tamil Nadu**, wife lodged a complaint under Section 498A and 406 of IPC against her in-laws and husband's brother and sister. Having found that the allegations against brother and sister of the husband are not specifically made against these persons, the Supreme Court ruled that offence under Section 498A cannot be made out from such allegations. Dealing with this aspect, the Supreme Court observed as under.

It is further stated in the report that Gowri would make wrong imputations to provoke her husband and would warn her that nobody could do anything to her family. These allegations, even if true, do not amount to harassment with a view to coercing the informant or her relation to meet an unlawful demand for any property or valuable security. At the most, the allegations reveal that her sister-in-law Gowri was insulting and making derogatory remarks against her and behaving rudely against her. Even acts of abetment in connection with unlawful demand for property/dowry are not alleged against her. The bald allegations made against her sister-in-law seem to suggest the anxiety of the informant to tope in as many of the husband's relations as possible. Neither the FIR nor the charge sheet furnished the legal basis to the Magistrate to take cognizance of the offences alleged against the appellant Gowri Ramaswamy.

After giving anxious consideration to the allegations made in the FIR, this Court is of considered opinion that the complaint of second respondent as against accused Nos.3 and 4 does not justify the charge of Section 498A of IPC against them. They are bald allegations and do not amount to harassment with a view to meet any unlawful demand for dowry.

For these reasons, this Writ Petition is allowed and Crime No.22 of 2004 of Women Police Station, Nellore, insofar as accused No.3 (petitioner No.1 herein), and accused No.4 (petitioner No.2 herein) is quashed. The first respondent is directed to complete investigation against accused Nos.1 and 2 and file charge sheet immediately. There shall be no order as to costs.

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(V.V.S.RAO, J)

18.8.2005

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